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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/724,373 | 11/28/2000 | Nancy L. Saxon | 60,130-868 | 9170 |

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EXAMINER

GIBSON, RANDY W

ART UNIT PAPER NUMBER

2841

DATE MAILED: 09/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/724,373

Applicant(s)

SAXON ET AL.

Examiner

Randy W. Gibson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2003 & April 14, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the Appeal Brief filed on June 18, 2003, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Response to Amendment

2. The amendment filed after final on April 14, 2003 (paper # 9) has been entered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 9-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

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one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is unclear from the written description how the vehicle component position data is used by the on-board system to evaluate optimum vehicle loading; there are no algorithms given as to how the evaluation unit uses weight and position data to instruct the user on how to arrange the load.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Baker (U.S. # 6,157,889). Baker discloses the claimed invention including at least one load sensor (42) and a position sensor for determining the position of a component of the vehicle for optimizing vehicle loading (Col. 5, lines 29-39) where the component is an axle (Col. 4, lines 39-52).

6. Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hamilton et al (U.S. # 4,651,838). Hamilton et al discloses the claimed invention including at least one load sensor (65), a memory unit (74) for storing load optimization data (Col. 8, lines 25-35), and a position sensor (120) for determining the position of an axle component of the vehicle for optimizing vehicle loading (Col. 8, lines 25-40; & Col. 12, lines 3-68).

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevenson (U.S. # 5, 167,289) in view of Hamilton et al (U.S. # 4,651,838). As acknowledged by the applicant in his reply brief, the only difference between apparatus disclosed by Stevenson and the claimed invention is the use of position sensors. However, Hamilton et al teach that it is preferable to use position sensors in connection with weight detecting pressure sensors to insure that the vehicle is level and that the air bag suspension is properly inflated before taking pressure readings (Col. 12, lines 3-68). It would have been obvious to the ordinary practioner to modify the apparatus of Stevenson to include position sensors, as taught by Hamilton et al, to insure that the vehicle was in a condition to insure that accurate weight readings could be taken.

9. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kyrtos (U.S. # 6,363,331 B1) in view of Hamilton et al (U.S. # 4,651,838). Kyrtos discloses an air suspension pressure weight sensor (Col. 2, lines 35-48), a memory unit for storing load optimization data (Col. 2, lines 49-57; Col. 3, lines 36-57). As acknowledged by the applicant in his reply brief, the only difference between apparatus disclosed by Kyrtos and the claimed invention is the use of position sensors. However, Hamilton et al teach that it is preferable to use position sensors in connection with

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weight detecting pressure sensors to insure that the vehicle is level and that the air bag suspension is properly inflated before taking pressure readings (Col. 12, lines 3-68). It would have been obvious to the ordinary practioner to modify the apparatus of Kyrtos to include position sensors, as taught by Hamilton et al, to insure that the vehicle was in a condition to insure that accurate weight readings could be taken.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton et al (U.S. # 4,651,838) in view of Wagner (U.S. # 4,854,407), Schmidt (U.S. 4,103,752), Breed et al (U.S. # 6,242,701 B1), and Schedrat et al (U.S. # 5,526,702). As discussed *supra*, Hamilton et al discloses the claimed invention except for the position sensor for determining the position of the kingpin assembly. However, it is known in the art that movement of the kingpin assembly requires readjustment of the calibration of the pressure weight sensors since movement of the same shifts the weight being supported among the various axles of the vehicle as shown by the examples of Wagner (Abs.; Col. 3, lines 59-68) and Schmidt (Col. 6, lines 40-51). Wagner and Schmidt both require manual readjustment, or recalibration, of the weight display device in response to the movement of the kingpin assembly. It is known in the art to use a linear variable resistor to automatically measure linear displacement of a rack assembly to allow automatic readjustment of a vehicle mounted weighing device as shown by the example of Breed et al (Col. 13, lines 22-61 and Col. 15, ln. 63 to col. 16, ln. 16). Since Schedrat et al suggest using position sensors in association with vehicle kingpin assemblies (Col. 2, lines 37-48), it would have been obvious to the ordinary practioner

to use a position sensor in connection with the kingpin assembly of Hamilton et al to allow the weight display device to automatically readjust for movement of the kingpin assembly without the operator having to remember to manually readjust the display device every time he moves the kingpin assembly.

11. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stevenson (U.S. # 5, 167,289) in view of Hamilton et al (U.S. # 4,651,838) as applied to claims 9 and 10 above, and further in view of Wagner (U.S. # 4,854,407), Schmidt (U.S. 4,103,752), Breed et al (U.S. # 6,242,701 B1), and Schedrat et al (U.S. # 5,526,702). As discussed *supra*, the combination of Stevenson and Hamilton et al disclose the claimed invention except for the position sensor for determining the position of the kingpin assembly. However, it is known in the art that movement of the kingpin assembly requires readjustment of the calibration of the pressure weight sensors since movement of the same shifts the weight being supported among the various axles of the vehicle as shown by the examples of Wagner (Abs.; Col. 3, lines 59-68) and Schmidt (Col. 6, lines 40-51). Wagner and Schmidt both require manual readjustment, or recalibration, of the weight display device in response to the movement of the kingpin assembly. It is known in the art to use a linear variable resistor to automatically measure linear displacement of a rack assembly to allow automatic readjustment of a vehicle mounted weighing device as shown by the example of Breed et al (Col. 13, lines 22-61 and Col. 15, ln. 63 to col. 16, ln. 16). Since Schedrat et al suggest using position sensors in association with vehicle kingpin assemblies (Col. 2, lines 37-48), it would

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have been obvious to the ordinary practitioner to use a position sensor in connection with the kingpin assembly of Stevenson to allow the weight display device to automatically readjust for movement of the kingpin assembly without the operator having to remember to manually readjust the display device every time he moves the kingpin assembly.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kyrtos (U.S. # 6,363,331 B1) in view of Hamilton et al (U.S. # 4,651,838) as applied to claims 9 and 10 above, and further in view of Wagner (U.S. # 4,854,407), Schmidt (U.S. 4,103,752), Breed et al (U.S. # 6,242,701 B1), and Schedrat et al (U.S. # 5,526,702). As discussed *supra*, the combination of Kyrtos and Hamilton et al disclose the claimed invention except for the position sensor for determining the position of the kingpin assembly. However, it is known in the art that movement of the kingpin assembly requires readjustment of the calibration of the pressure weight sensors since movement of the same shifts the weight being supported among the various axles of the vehicle as shown by the examples of Wagner (Abs.; Col. 3, lines 59-68) and Schmidt (Col. 6, lines 40-51). Wagner and Schmidt both require manual readjustment, or recalibration, of the weight display device in response to the movement of the kingpin assembly. It is known in the art to use a linear variable resistor to automatically measure linear displacement of a rack assembly to allow automatic readjustment of a vehicle mounted weighing device as shown by the example of Breed et al (Col. 13, lines 22-61 and Col. 15, ln. 63 to col. 16, ln. 16). Since Schedrat et al suggest using position sensors in association with vehicle kingpin assemblies (Col. 2, lines 37-48), it would have been obvious to the

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ordinary practioner to use a position sensor in connection with the kingpin assembly of Kyrtosos to allow the weight display device to automatically readjust for movement of the kingpin assembly without the operator having to remember to manually readjust the display device every time he moves the kingpin assembly.

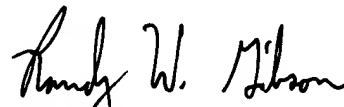
Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gudat shows an apparatus similar to the applicant's claims (Col. 2, lines 33-43).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (703) 308-1765. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on (703) 308-3121. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-5115.



Randy W. Gibson
Primary Examiner
Art Unit 2841



David Martin
Supervisory Patent Examiner
Art Unit 2841